



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

December 4, 2014

CERTIFIED RETURN RECEIPT 7012 3460 0002 9559 6113

Kenneth E. May, General Manager
Canyon Fuel Company, LLC
597 South SR24
Salina, Utah 84654

Subject: Proposed Assessment for State Violation No. N13148, Sufco Mine, C/041/0002, Task ID #4692

Dear Mr. May:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed is the proposed civil penalty assessment for the above referenced violation. The violation was issued by Division Inspector, Joe Helfrich, on date, October 1, 2014. Rule R645-401-600 et. seq. has been utilized to formulate the proposed penalty. By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this Notice of Violation has been considered in determining the facts surrounding the violation and the amount of penalty. Information provided at an Informal Conference has also been considered.

Under R645-401-700, there are two informal appeal options available to you:

1. You have already appealed the fact of this violation, and an Informal Conference was held on October 29, 2014. This conference was conducted by the Division Director, John Baza who issued the Findings of Fact, Conclusions of Law, on November 20, 2014, upholding the fact of the violation. The Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.



2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter.

If a timely request for review is not made, the fact of violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Suzanne Steab.

Sincerely,



Daron R. Haddock
Assessment Officer

Enclosure

cc: Suzanne Steab, DOGM
Sheri Sasaki, DOGM

O:\041002.SUF\WG4692\PROPOSED ASSESSMENT NOV13148.DOC

**WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING**

COMPANY / MINE Canyon Fuel Company, LLC/ SUFCO Mine

PERMIT C/041/0002 NOV # N 13148 VIOLATION 1 of 1

ASSESSMENT DATE December 4, 2014

ASSESSMENT OFFICER Daron R. Haddock

I. HISTORY (Max. 25 pts.)

- A. Are there previous violations, which are not pending or vacated, which fall one (1) year of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>None</u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>

1 point for each past violation, up to one (1) year
5 points for each past violation in a CO, up to one (1) year
No pending notices shall be counted

TOTAL HISTORY POINTS 0

II. SERIOUSNESS (Either A or B)

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or HINDRANCE (B) violation? Event

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?

Water Pollution

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 5

PROVIDE AN EXPLANATION OF POINTS:

******According to the information in the inspector statement, water was impounded at the waste rock expansion site during the September 23, 2014 inspection. Impounding water on a waste rock site is contrary to the MRP and the R645 rules. Water infiltrating into the waste could become contaminated or could leach out contaminants. The inspector indicated that water pollution had not occurred and was unlikely to occur since groundwater levels are well below the area of impounded water at the surface. Points are assigned in the middle of the Unlikely range.***

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 5

PROVIDE AN EXPLANATION OF POINTS:

****** According to the information in the inspector statement, there was no actual damage occurring. Potential for damage is fairly low as groundwater levels are well below the impounded water at the surface. Also the area of impounded water was quite small and would ultimately drain to the sediment pond should there be additional runoff occurring or with a minimal amount of regrading in the area. Points are assigned in the lower end of the damage range.***

B. HINDRANCE VIOLATION (Max 25 pts.)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS NA

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 10

III. NEGLIGENCE (Max 30 pts.)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

***** According to the information in the inspector statement, reasonable care was not taken to convey water away from the waste rock site and into the sediment pond. A prudent Operator would ensure that runoff water was not allowed to pool on the waste rock site. This indicates a lack of reasonable care in the ordinary negligence range. Thus points are assigned in the middle of that range.**

IV. GOOD FAITH (Max 20 pts.)

(Either A or B)

(Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

X	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
X	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	0
	(Operator complied within the abatement period required)	

(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)

*Assign in upper or lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

X	Rapid Compliance	-11 to -20*
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	-1 to -10*
	(Operator complied within the abatement period required)	
X	Extended Compliance	0
	(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)	
	(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)	

EASY OR DIFFICULT ABATEMENT? _____

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

******Good faith will be evaluated upon termination of the violation. The NOV requires the submittal and approval of plans and the Operator does have the resources necessary for completing this. However, the NOV has not been abated to date, so no good faith is warranted.***

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # **N 13148**

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>10</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>18</u>

TOTAL ASSESSED FINE **\$ 396**

U.S. Postal Service TM
CERTIFIED MAIL TM RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage \$
Certified Fee
Return Receipt Fee
(Endorsement Required)
Restricted Delivery Fee
(Endorsement Required)

Postmark
Here

Total Postage

Sent To

Street, Apt. No.
or PO Box No.
City, State, Zip

Ken May, General Manager
Canyon Fuel Company
597 South SR24
Salina, Utah 84654

PS Form 3800, August 2006

See Reverse for Instructions

7012 3460 0002 9559 6113